

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA)
) Case No: 1:16-CR-201
v.)
) Hon. Gerald B. Lee
KYLER GEORGE SCHMITZ)
)
)
Defendant.)
)

DEFENDANT'S NON-CONFIDENTIAL MEMORANDUM
IN SUPPORT OF MOTION TO SEAL

The defendant, Kyler Schmitz, by counsel and pursuant to Local Criminal Rule 49(E), asks for an Order sealing the document attached to his Motion to Seal.

I. Items to be Sealed and Necessity for Sealing

A. The defendant asks the Court to seal the document entitled "Defendant's Position with Regard to Sentencing Factors" and accompanying exhibits filed with the Court on December 9, 2016.

B. Sealing is necessary in order to safeguard the privacy of the defendant in that the document contains sensitive information about the defendant's personal history.

II. Previous Court Decisions Which Concern Sealing Documents

The Court has the inherent power to seal materials submitted to it. *See United States v. Wuagneux*, 683 F.2d 1343, 1351 (11th Cir. 1982); *State of Arizona v. Maypenny*, 672 F.2d 761, 765 (9th Cir. 1982); *Times Mirror Company v. United States*, 873 F.2d 1210 (9th Cir. 1989); *see also Shea v. Gabriel*, 520 F.2d 879 (1st Cir. 1975); *United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980); *In re Braughton*, 520 F.2d 765, 766 (9th Cir. 1975). "The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public's

right of access is outweighed by competing interests.” *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984).

III. Period of Time to Have the Document Under Seal

A. The materials to be filed under seal would need to remain sealed permanently or until unsealed by the Court.

Accordingly, the defendant respectfully requests that an Order be entered allowing “Defendant’s Position with Regard to Sentencing Factors” and exhibits to be placed Under Seal.

Respectfully submitted,
Kyler Schmitz
By Counsel,

/s/
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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December, 2016, I will electronically file the foregoing with the Clerk of court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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Pursuant to the Electronic Case Filing Policies and Procedures, a courtesy copy of the foregoing pleading will be delivered to Chambers within one business day of the electronic filing.

/s/
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